

## **REMARKS**

This is a full and timely response to the outstanding Final Office Action mailed April 7, 2004. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **Claim Rejections - 35 U.S.C. § 102(e)**

Claims 1-4, 6-11, 21, and 31 remain rejected under 35 U.S.C. § 102(e) as being anticipated by Gleichauf et al. ("Gleichauf," U.S. Pat. No. 6,324,656). Applicant maintains the traversal of the rejection, and incorporates the arguments presented in response to the rejection in the previous Response (Paper No. 6).

As noted in the previous Response, Gleichauf discloses a system and method for network vulnerability assessment. As is described by Gleichauf, a network vulnerability assessment (NVA) engine 20 is provided that, in a discovery phase, pings devices coupled to the network backbone in order to identify the devices that are so coupled. Gleichauf, column 4, lines 9-55. Gleichauf refers to this as "host discovery." Id. After the discovery phase, the NVA engine performs port scans on each discovered host to collect data that pertains to network vulnerability. Id. The data collected through the port scans is then placed in a port database 22 so that the vulnerability of the network can be assessed. Id.

In view of the above, it is clear that Gleichauf teaches a system that identifies hosts that are connected to a network and that assesses the vulnerability of the network in view of the ports of those hosts. Although Gleichauf discloses host discovery and port scanning, Gleichauf does not disclose identifying devices that are *connected to* the host that is connected to the network. Specifically, although the Gleichauf system collects information as to the susceptibility of the ports of a given workstation, the

Gleichauf system is not described as determining what devices (e.g., external hard drive, tape drive, etc.) are connected to that workstation. Therefore, the Gleichauf system does not provide that administrator with information as to *the devices that are connected to the host*.

In the outstanding Office Action, the Examiner provides responses to the various points made by Applicant in the previous Response. Applicant replies to those responses in the following.

As a first matter, the Examiner states that “Applicant is arguing that the reference made of record does not teach identifying devices that are connected to a host. This limitation is not found in the claims.” In response to this point, Applicant first notes that several Applicant’s original claims explicitly referred to scanning a host to determine if devices are connected to the host. For example, referring to independent claim 1, claimed is “scanning the network host with the remote command process to determine if devices are connected to the host” and “receiving a response to the scan request from the remote command process that indicates whether a device is connected to the network host.” Gleichauf clearly does not teach these recitations.

Irrespective of the above, Applicant has amended the claims to explicitly refer to “identifying” devices connected to a host. For example, claim 1 provides “scanning the network host with the remote command process *to identify devices that are connected to the host*” and “*receiving a response* to the scan request from the remote command process *that indicates what devices are connected to the network host*”. Similar recitations are found in the other independent claims. Claim 11 recited “*means for scanning the network host* with the remote command process *to identify devices that are connected to the host*” (emphasis added); claim 21 recites “*logic configured to scan the network host* with the remote command process *to identify devices that are*

*connected to the host*” (emphasis added); and claim 31 recites “a remote command process running on a second network host, the remote command process being configured to receive the scan request sent by the controller process and initiate a scan of the second network host *to identify devices that are connected to the second network host*” (emphasis added). Gleichauf clearly does not anticipate or suggest those recitations.

Next, the Examiner states that “Applicant admits that Gleichauf ‘pings devices coupled to the network backbone in order to identify the all [sic] devices that are coupled.’ ” Applicant clarifies as follows: The system in Gleichauf pings devices *coupled to the network backbone*, but Gleichauf is silent as to identifying devices that are connected to those devices. Specifically, although Gleichauf pings the network hosts, Gleichauf does not identify the devices that are connected to those hosts.

#### **Claim Rejections - 35 U.S.C. § 103(a)**

Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Gleichauf in view of Hemphill et al. (“Hemphill,” U.S. Pat. No. 6,490,617). Applicant maintains the traversal of the rejection, and incorporates the arguments presented in response to the rejection in the previous Response (Paper No. 6). Furthermore, Applicant refers the Examiner to the comments provided above in relation to independent claim 1, from which claim 5 depends.

#### **Claims 12-20 and 22-30**

As a final matter, the Examiner further argues that claims 12-20 and 22-30 were not improperly rejected. Applicant again provides the entirety of the rejection that was presented in the first Office Action as to those claims:

4. Claims 12-20 and 22-30 do not teach or define any additional limitations over claims 1-10 and therefore are rejected for similar reasons.

Office Action, page 7, lines 3-4.

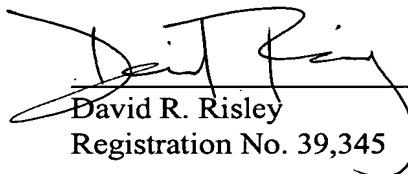
Once again, this rejection is per se improper. As a first matter, it is not clear whether the rejection is under 35 U.S.C. §102 or §103. In that the Examiner has still provided no guidance on this point, Applicant *still* does not know under which statutory section claims 12-20 and 22-30 have been rejected and therefore has been denied an opportunity to properly respond to the rejection. As a second matter, not a single reference has been cited in either of the Examiner's Office Action as anticipating or rendering obvious "claims 1-10." Specifically, Gleichauf is alleged to anticipate claims 1-4 and 6-10, while the Gleichauf/Hemphill combination is alleged to render claim 5 obvious. Therefore, the rejection, which states that claims 12-20 and 22-30 are rejected for "similar reasons" as "claims 1-10," is ambiguous. If claims 12-20 and 22-30 are rejected for the same reasons as 1-4 and 6-10, why were claims 12-20 and 22-30 not included in the rejection under 35 U.S.C. § 102(e)? This ambiguity further prevents Applicant from properly traversing the rejection.

The Examiner's treatment of claims 12-20 and 22-30 is per se improper and constitutes reversible error that will not withstand the scrutiny of an appeal before the Board of Patent Appeals and Interferences. Applicant again requests a proper statement of a prior art rejection as to claims 12-20 and 22-30 in a non-final Office Action (given that Applicant was never provided with such a statement), or immediate allowance of claims 12-20 and 22-30.

### CONCLUSION

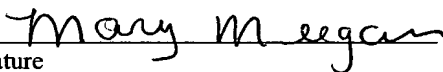
Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

  
David R. Risley  
Registration No. 39,345

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5-27-04

  
Signature